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Candace Havens
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WORKING SESSION MEMORANDUM

DATE: September 21, 2012

TO: Alderman Marcia Johnson, Chairman
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development
James Freas, Chief Planner for Long Range Planning
Seth Zeren, Chief Zoning Code Official 

RE: #60-10: Ald. Hess-Mahan proposing that sections 30-15(s)(10) and 30-24 of the City of Newton Ordinances be amended to substitute a requirement for a three-dimensional computer model for the option of providing a scaled massing model for special permit applications in the Planned Multi-Use Business District (PMBD), per Section 30-15(s)(10)a), and for commercial and/or multi-family development with a gross floor area of greater than 20,000 square feet, per Section 30-24(b) in order to facilitate compliance with recent amendments to the Open Meeting Law and that Sections 30-23 and 30-24 be amended to reflect the filing procedures in Article X of the Rules & Orders of the Board of Aldermen.

MEETING DATE: Working Session on September 24, 2012

CC: Board of Aldermen
Planning and Development Board
Donnalyn Kahn, City Solicitor

EXECUTIVE SUMMARY

The Zoning and Planning Committee held a public hearing on Petition #60-10 on September 10, 2012. The current regulations require that applicants proposing large commercial or multi-family developments provide a physical model with a special permit application. Petition #60-10 seeks to replace the existing requirement with a 3D computer model. Petition #60-10 also seeks to make the site plan review and special permit procedures of the Zoning Ordinance and the Rules of the Board of Aldermen conforming through other changes to Sections 30-23 and 30-24. (See the Planning Department memorandum dated September 7, 2012 for more information).

Members of the public and the Board of Aldermen raised several important issues at the public hearing including:

- What level of details should be called out in the Ordinance to ensure the model provides a useful representation of the proposed development and the neighborhood context?
- Who should prepare or certify that the 3D model is accurate?
- Does a requiring a computer-based model create an undue burden on developers?
- Similarly, is a computer-based model accessible to the general public, including those who do not have access to computers or expertise in the type of software demonstrated?

Level of detail

The intent of this provision is to provide sufficient detail so those who view it are able to readily understand the relationship of the project to its surroundings. How this is carried out may vary depending on the scale of the project, complexity of the design, topography, and other considerations. As such, staff suggests that the level of detail needed be left to the discretion of the Planning Director and. recommends adding the following text, excerpted below, to the requirements in 30-24(b).

“...a 3D computer-generated model including such details as necessary to show the relationship of the project to its surroundings at the discretion of the Director of Planning and Development...”

Certifying the model

The existing text requires the physical model be built by an architect, engineer, or land surveyor. Graphic representations of structures could be prepared not only by design professionals, but by graphic artists. The key consideration is whether they accurately depict the architect’s design. As such, Planning staff supports the recommendation made by some of the participants that the ordinance should not too closely specify who creates the model, but rather the ordinance should include a requirement that the model be submitted by a licensed professional to provide assurance that the model faithfully represents his or her design.

Burden on developers

The proposed 3D model is only required for large commercial developments that are already likely producing 3D models as part of their design process or community engagement process. The SketchUp software demonstrated at the public hearing is widely used in the design and architecture professions and developing a model as described is a relatively easy and inexpensive proposition, particularly in comparison to the current requirement to provide a physical model.

Public accessibility

City staff believes that an appropriate software format can be selected to ensure that the technology is widely accessible, free, and works on most computer systems. Staff is also committed to access for all interested parties. If this Petition is approved, Planning staff will work with the Information Technology Department to develop procedures and capacities to ensure accessibility. Access can be provided remotely by providing or linking to online instructions or tutorials on using 3D model software. For visitors to City Hall, software and current models can be loaded onto the computer kiosk in the City Hall Rotunda where customer service staff are available to assist them.

PROPOSED TEXT CHANGES

1. **Replace the current 30-15(s)(10)a) with the following:**

(10) Additional Filing Requirements for PMBDs. In addition to the provisions of sections 30-23 and 30-24, applicants for a grant of special permit for a PMBD shall submit:

a) A 3D computer-generated model consistent with section 30-24(b);

2. **Replace the current Section 30-24(b) with the following:**

(b) Contents of the Application. Each application for a special permit shall be accompanied by a site plan submission prepared in accordance with the provisions of section 30-23(b).

The applicant shall also submit a 3D computer-generated model, including such details as necessary to show the relationship of the project to its surroundings. The level of detail included in the model shall be at the discretion of the Director of Planning and Development. The architect of record shall certify that the model is an accurate representation of the proposed design. For any commercial and/or multi-family development with a gross floor area of 20,000 square feet or more a model shall be provided as follows: for a proposed development containing a gross floor area of 20,000 to 50,000 square feet, the model shall show the proposed development, all abutting properties and abutters to such abutting properties; for a proposed development containing a gross floor area 50,001 to 100,000 square feet, the model shall show the proposed development and all properties within 500 feet from the lot line of the proposed development or all abutting properties and abutters to such abutting properties, whichever is greater; for a proposed development containing a gross floor area in excess of 100,000 square feet, the model shall show the proposed development and all properties within 1,000 feet of the lot line of the proposed development or all abutting properties and abutters to such abutting properties, whichever is greater. The model shall be provided to the City in a file format acceptable to the Director of Planning and Development, in consultation with the Clerk of the Board of Aldermen, the City Solicitor, and the Chief Information Officer.

3. **Add the word "3D" to the current Section 30-24(j)(2), to read:**

(j)(2) 3D computer-generated model that shows the relationship of the project to its surroundings consistent with section 30-24(b);

4. **Replace the current Section 30-23(a) with the following:**

(b) Applications. A written application for a site plan approval, on forms provided by the city clerk and accompanied by fifteen (15) sets of plans prepared as provided below, shall be submitted in accordance with the procedures of this section and the Rules and Orders of the Board of Aldermen pertaining to special permit and site plan approval petitions by delivery or registered mail, return receipt requested, to the city clerk, who shall transmit such application to the board of aldermen and the department of planning and development. If the application is submitted by delivery, the city clerk shall give the applicant a written receipt therefor, indicating the date of such submission.

5. **Replace the current Section 30-24(a) with the following:**

(a) Whenever a special permit is required under the provisions of this ordinance, a written application for a special permit, on forms provided by the city clerk and accompanied by plans prepared as provided in section 30-23(b) shall be submitted in accordance with the procedures of this section and the Rules and Orders of the Board of Aldermen pertaining to special permit and site plan approval petitions by delivery or registered mail, return receipt requested, to the city clerk, who shall transmit such application to the board of aldermen and the department of planning and development. If the application is submitted by delivery, the city clerk shall give the applicant a written receipt therefor, indicating the date of such submission. Whenever an application for a special permit is required under the provisions of this ordinance, site plan approval in accordance with section 30-23 shall also be required and an application for such approval shall be filed concurrently with the application for special permit.

6. Add the following to Section 30-24(c) and renumber the other subsections accordingly:

(c) Procedures.

- (1) As part of an application for special permit, an applicant must comply with the Rules and Orders of the Board of Aldermen pertaining to special permit and site plan approval

RECOMMENDATION

The Planning Department believes that the proposed text above achieves the intent of Petition #60-10 and recommends that the item be advanced to the full Board of Aldermen for final consideration. Planning staff looks forward to addressing any remaining questions or comments.